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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/866,003	05/25/2001	Jeff Swanson	UTL00022	5858

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EXAMINER

SHARMA, SUJATHA R

ART UNIT	PAPER NUMBER
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2618

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/23/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

09/866,003

Applicant(s)

SWANSON ET AL.

Examiner

Sujatha Sharma

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-7,9,10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Richter [DE 1918055A1] in view of Kim [US 2002/0109614].

Regarding claims 1,3 Richter discloses a mobile handset comprising

- a housing; see 3 in Fig. 1a
- a transparent area integrally associated with the housing; see fig. 2 and English translation document page 8, paragraph 3
- a graphical element positioned on the transparent area; see fig. 2 and English translation document page 8, paragraph 3
- a backlighting source within the mobile handset and constructed to illuminate at least portion of the transparent area; see English translation document page 6, paragraph 6, page 9, paragraph 2.

However, Richter does not disclose a method wherein the graphical element is located on a front portion of said housing and being indicative of a key function.

Kim, in the same field of endeavor, teaches a method wherein each of the keys has indicia associated with it and the said indicia maybe located on the key or on the front portion of the housing adjacent to the key. See page 1, paragraph 16 and page 5.

Therefore it would have been obvious to one with ordinary skill in the art at the time the invention was made to provide the above teaching of Kim to Richter in order to provide a versatile and easy use of the device to the user.

Regarding claim 2, Richter discloses the backlighting source to be an array of light emitting diodes. See english translation document page 4, paragraph 2, page 6, paragraph 6, page 7, paragraph 1, page 9, paragraph 2.

Regarding claim 4, Richter discloses a method wherein the device comprises of at least one layer of opaque coating upon at least a portion of the transparent area. See English translation, page 3, paragraphs 1,2.

Regarding claim 5, Richter further discloses a method wherein the graphical element comprises a negative image (image that is light against a dark background) within the coating. See English translation document, page 2, paragraphs 2,3.

Regarding claims 6,7 Richter further discloses the graphical element to comprise of pad printed graphical element. See english translation document, page 3, paragraphs 4, page 9, paragraph 1.

Regarding claim 9, Richter discloses a method wherein the device comprises at least one layer of an opaque coating on the non-graphics surface area of the housing. See english translation document, page 7, paragraph 1, page 9, paragraph 1

Regarding claim 10, Richter discloses a method wherein the device comprises at least one layer of an opaque coating on the graphics surface area of the housing. See English translation document, page 2, paragraph 2,3.

Regarding claim 11, Richter discloses a mobile handset comprising:

- a translucent housing having an outer and inner surface; see fig. 2 and English translation document page 8, paragraph 3
- at least one layer of an opaque coating upon at least said outer surface of said housing; See English translation document, page 2, paragraph 2,3
- graphical elements located on at least said housing, said graphical elements comprising a negative image within said coating so as to expose said housing outer surface through said graphical elements; see fig. 2 and English translation document page 2, paragraph 2,3 and page 8, paragraph 3
- backlighting source located within said housing for enhancing visibility of said graphical elements, said backlight source comprising at least one source selected from the group consisting of an electroluminescent panel and an array of light emitting diodes; see English translation document page 6, paragraph 6, page 9, paragraph 2

However, Richter does not disclose a method wherein the graphical element is located on a front portion of said housing and being indicative of a key function.

Kim, in the same field of endeavor, teaches a method wherein each of the keys has indicia associated with it and the said indicia maybe located on the key or on the front portion of the housing adjacent to the key. See page 1, paragraph 16 and page 5.

Therefore it would have been obvious to one with ordinary skill in the art at the time the invention was made to provide the above teaching of Kim to Richter in order to provide a versatile and easy use of the device to the user.

Regarding claim 12, Richter further discloses handset comprising:

- at least the front portion of said housing formed from light emitting material; see fig. 2 and English translation document page 8, paragraph 3
- an opaque layer covering selected portions of said light transmitting housing front portion defining the edges of graphical elements; See English translation, page 3, paragraphs 1,2
- the electroluminescent panel arranged within the housing so that visible light is emitted through areas of said housing front portions not covered by said opaque layer. See Fig. 1a-1d and English translation, page 3, paragraphs 1,2; page 4, paragraphs 1-3

However, Richter does not disclose a method wherein the graphical element is located on a front portion of said housing and being indicative of a key function.

Kim, in the same field of endeavor, teaches a method wherein each of the keys has indicia associated with it and the said indicia maybe located on the key or on the front portion of the housing adjacent to the key. See page 1, paragraph 16 and page 5.

Therefore it would have been obvious to one with ordinary skill in the art at the time the invention was made to provide the above teaching of Kim to Richter in order to provide a versatile and easy use of the device to the user.

3. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Richter [DE 1918055A1] and Kim [US 2002/0109614] in view of admitted prior art (page 7, lines 16-21).

Regarding claim 8, Richter as treated in claim 1 discloses all the limitations as claimed. However he does not disclose a method wherein the housing and the graphical element comprise an in-molded graphical element.

Admitted prior art teaches the in-molded process to create graphical element on the housing of the wireless unit. See page 7, lines 16-21.

Therefore it would have been obvious to one with ordinary skill in the art at the time the invention was made to provide the above teaching to modified Richter as design choice in creating the graphical element on the housing of the wireless device.

Response to Arguments

4. Applicant's arguments filed 1/4/07 have been fully considered but they are not persuasive.

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The applicant argues that the primary reference fails to disclose a method where the transparent area is integrally associated with a front portion of the housing. The examiner respectfully disagrees and would like to draw the applicant's attention to the following MPEP rule:

In re Larson, 340 F.2d 965, 968, 144 USPQ 347, 349 (CCPA 1965) (A claim to a fluid transporting vehicle was rejected as obvious over a prior art reference which differed from the prior art in claiming a brake drum integral with a clamping means, whereas the brake disc and clamp of the prior art comprise several parts rigidly secured together as a single unit. The court affirmed the rejection holding, among other reasons, "that the use of a one piece construction instead of the structure disclosed in [the prior art] would be merely a matter of obvious engineering choice."); but see Schenck v. Nortron Corp., 713 F.2d 782, 218 USPQ 698 (Fed. Cir. 1983) (Claims were directed to a vibratory testing machine (a hard-bearing wheel balancer) comprising a holding structure, a base structure, and a supporting means which form "a single integral and gaplessly continuous piece." Nortron argued that the invention is just making integral what had been made in four bolted pieces. The court found this argument unpersuasive and held that the claims were patentable because the prior art perceived a need for mechanisms to dampen resonance, whereas the inventor eliminated the need for dampening via the one- piece gapless support structure, showing insight that was contrary to the understandings and expectations of the art.).

Further, though the primary reference Richter does not clearly mention "integral", however, the reference teaches a method wherein the display cover made of transparent plastic is physically mounted on the front portion of the handset housing and therefore is integrally associated.

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The applicant also argues that the secondary reference Kim though discloses a method where the indicia is printed on top of the cover, it does not disclose a method where a graphical element indicative of a key function is located on the transparent area on the front portion of the housing. The examiner respectfully disagrees and would like to draw the applicant's attention to Kim reference. The term "graphical element" is given a broad interpretation to include indicia such as numbers and alphanumeric characters also. Therefore Kim's reference reads on the claimed limitation i.e. "graphical element indicative of a key function located on the front portion of the housing". See page 1, paragraph 16 and page 5.

Therefore in combination the Richter and Kim references reads on all the limitations as claimed and as discussed above in the rejection of the claims.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sujatha Sharma whose telephone number is 571-272-7886. The examiner can normally be reached on Mon-Fri 7.30am - 4.00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew D. Anderson can be reached on 571-272-4177. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Sujatha Sharma
January 18, 2007